

**MINUTES**

**MONTANA SENATE  
59th LEGISLATURE - REGULAR SESSION**

**FREE CONFERENCE COMMITTEE ON HOUSE BILL 2**

**Reconvened:** By **CHAIRMAN MIKE COONEY**, on April 16, 2005 at  
2:10 P.M., in Room 317 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Mike Cooney, Chairman (D)  
Rep. Rosalie (Rosie) Buzzas, Chairman (D)  
Sen. John Cobb (R)  
Rep. Eve Franklin (D)  
Rep. John Sinrud (R)  
Sen. Jon Tester (D)  
Rep. Jack Wells (R)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Prudence Gildroy, Committee Secretary  
Taryn Purdy, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 2, 4/15/2005  
Executive Action: HB 2

**CHAIRMAN MIKE COONEY** brought the meeting to order and read an announcement request to give the authority to the staff to make adjustments to all amendments adopted by this committee to correct technical, clerical, or other non-substantive errors as needed to meet the intent of the committee.

**EXHIBIT**(frs82hb0002a01)

**CHAIRMAN COONEY** advised they went through Section A last night and the technical and contingency amendments were adopted.

**Section A**

**Motion:** **REP. JOHN SINRUD** moved that HB000261.AGD BE ADOPTED.

**EXHIBIT**(frs82hb0002a02)

**Discussion:**

**REP. SINRUD** advised this amendment will remove the backfill from federal funds to the general fund in the Department of Revenue.

**SEN. JON TESTER** asked him to explain. **REP. SINRUD** replied this eliminates the general fund that was used to backfill the removal of federal dollars when the federal dollars for the Unemployment Insurance Division (UI) were taken to the Department of Labor and Industry.

**REP. EVE FRANKLIN** asked if there is anyone that can speak to the effect of moving the money. **REP. SINRUD** objected, stating this is executive action. **CHAIRMAN COONEY** asked **Greg DeWitt, Legislative Fiscal Division**, to explain. **Mr. DeWitt** explained this amendment is the backfill for the lost federal money for the UI. The Department of Revenue specified that this addresses fixed costs--the functions that remain that were there before the function was transferred and remain after the department was transferred back to the Department of Labor. This includes human resources, payroll, and accountants that provide for the whole department. When the UI function was transferred to the department there was no increase. This was not for the people that were transferred from the Department of Labor and Industry to the Department of Revenue and then back to Labor and Industry. It was people in Revenue that were there before and are still there. **CHAIRMAN COONEY** indicated he carried the original amendment and will oppose the motion.

**Vote:** Motion failed 2-5 with **REP. SINRUD** and **REP. WELLS** voting aye.

Motion/Vote: REP. SINRUD moved that HB000262.AGD BE ADOPTED.  
Motion failed 4-3 with SEN. COBB, REP. SINRUD and REP. WELLS  
voting aye.

[EXHIBIT](#)(frs82hb0002a03)

Motion/Vote: REP. SINRUD moved that HB000263.ADD BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a04)

Motion: REP. SINRUD moved that HB000264.AGD BE ADOPTED.

[EXHIBIT](#)(frs82hb0002a05)

Discussion:

SEN. TESTER asked what state special account this is. REP.  
SINRUD said it was the funds coming in from requested services.  
Mr. DeWitt clarified the state special is funded with fees or the  
transfer of funds from other agencies.

Vote: Motion failed 2-5 with REP. SINRUD and REP. WELLS voting  
aye.

Motion/Vote: REP. SINRUD moved that HB000210.AJW BE ADOPTED.  
Motion failed 4-3 with SEN. COBB, REP. SINRUD and REP. WELLS  
voting aye.

[EXHIBIT](#)(frs82hb0002a06)

SEN. COBB asked about recording the votes. CHAIRMAN COONEY asked  
that the secretary record SEN. COBB as voting aye on the last  
vote with REP. WELLS and REP. SINRUD. SEN. COBB wanted to make  
sure, since it is the House versus the Senate, that they don't  
get into an issue about votes.

Motion/Vote: REP. SINRUD moved that HB000211.AJW BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a07)

Motion/Vote: REP. SINRUD moved that HB000231.ATP BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a08)

Motion/Vote: REP. SINRUD moved that HB000232.ATP BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a09)

Motion/Vote: REP. SINRUD moved that HB000233.ATP BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a10)

Motion/Vote: REP. SINRUD moved that HB000234.ATP BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a11)

Motion/Vote: REP. SINRUD moved that HB000235.ATP BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a12)

Motion/Vote: REP. SINRUD moved that HB000236.ATP BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a13)

Motion/Vote: REP. SINRUD moved that HB000237.ATP BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a14)

Motion/Vote: REP. SINRUD moved that HB000238.ATP BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a15)

Motion/Vote: REP. SINRUD moved that HB000239.ATP BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a16)

Motion/Vote: REP. SINRUD moved that HB000240.ATP BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a17)

Motion/Vote: REP. SINRUD moved that HB000241.ATP BE ADOPTED.  
Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT\(frs82hb0002a18\)](#)

Discussion:

REP. SINRUD noted the next amendment had already been voted down and asked if it is possible to offer this amendment again. **Taryn Purdy, Legislative Fiscal Division**, said, it is. **CHAIRMAN COONEY** advised they considered this amendment last night.

Motion/Vote: REP. SINRUD moved that HB000242.ATP BE ADOPTED. Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT\(frs82hb0002a19\)](#)

Motion/Vote: REP. SINRUD moved that HB000278.AMD BE ADOPTED. Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT\(frs82hb0002a20\)](#)

Motion/Vote: REP. SINRUD moved that HB000279.AMD BE ADOPTED. Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT\(frs82hb0002a21\)](#)

Motion/Vote: REP. SINRUD moved that HB000280.AMD BE ADOPTED. Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT\(frs82hb0002a22\)](#)

Motion/Vote: REP. SINRUD moved that HB000281.AMD BE ADOPTED. Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT\(frs82hb0002a23\)](#)

Motion: SEN. TESTER moved that HB000255.ATP BE ADOPTED.

[EXHIBIT\(frs82hb0002a24\)](#)

SEN. TESTER said this is language for the Indian Education Committee and makes it more clear.

Vote: Motion passed 5-2 with REP. SINRUD and REP. WELLS voting no.

**CHAIRMAN COONEY** ruled the amendment goes forward in the House without recommendation and passes in the Senate.

**Section B**

**Motion:** REP. WELLS moved that HB000201.ALS BE ADOPTED.

**EXHIBIT**(frs82hb0002a25)

**Discussion:**

REP. WELLS advised the amendment replaces HB000268.als. This whole amendment and the one following concern how the I-149 funds were statutorily applied. It appears from their analysis, that statutory guidelines are not being followed. They felt this amendment would apply the tobacco settlement money in a more appropriate way.

REP. SINRUD said the intent of this amendment is to get the I-149 money back to where it should be instead of being illegally spent and asked Ms. Steinbeck if that is correct. Ms. Steinbeck responded that is the intent of the amendment. The first two parts of the amendment do not require a statutory amendment, but part three does. Last session, when the Legislature used tobacco settlement funds for Medicaid match and in the mental health services plan, it enacted SB 45, which was a temporary amendment to statute allowing tobacco settlement funds that were allocated to tobacco prevention and control to be used for the uses listed in part three.

***{Tape: 1; Side: B}***

REP. SINRUD advised not putting the I-149 dollars where they should go opens up HB 2 to a lawsuit, because they are not spending the money where it supposed to be spent as it was voted on by the people of Montana. He believed it is statutory. He said to vote down this amendment would be taking the risk of allowing somebody to sue the state, tying up HB 2 in court, and shutting down government.

SEN. COBB indicated he respectfully disagrees with Mr. Petesch on this issue. In mental health services, the tobacco prevention money ends on July 1, 2005 and that program ends for several thousand people. Mr. Petesch's interpretation is that they are backfilling. SEN. COBB wondered if the program ends on a certain date and they use some other money to fund it, if that is backfilling or just funding a new program. The I-149 initiative said they were supposed to take care of the chronically ill and he contended the mentally ill are probably pretty chronically ill. He thought they could end up in court anyway.

**Vote:** Motion failed 2-5 with REP. SINRUD and REP. WELLS voting aye.

**Motion:** REP. SINRUD moved that HB000202.ALS BE ADOPTED.

**EXHIBIT**(frs82hb0002a26)

**Discussion:**

REP. WELLS said in their review of I-149, they have some analyses that show the revenue from the institution of I-149 is not coming in at the rates originally anticipated. Smokers are looking elsewhere for their cigarettes. This revenue stream is also impacted because they passed the smoking ban. The expenditures as programmed in this Legislature have, to some extent, exceeded the anticipated revenue. He expressed concern about the out years. The voters passed I-149 in the anticipation of smokers stopping smoking and he said he readily agrees with that. They thought some of these reductions would put the program in a better position so that later on, if the revenue stream does not come in as rapidly, that revenue will be sufficient to recur the remaining services.

SEN. TESTER said unless things have changed in the last few weeks, the projections are where they are supposed to be. It was projected that tobacco sales would be down in January and February because of stamp sales in November and December after I-149 was passed. He believed the projections for March are right at or near the projections. The amendment they put on last night transferring \$1.4 million from HB 667 to some of the reimbursement accounts makes it much more sustainable. Nobody knows what will happen with federal dollars and health care, Social Security, Medicare, etc.; out in the future they tend to change.

REP. SINRUD asked SEN. COBB about the projections that SEN. TESTER talked about and the effect of the statewide smoking ban. SEN. COBB said David Ewer, Budget Director, made the projections. With the amendment adopted the previous evening to move some money around, they think they are fine until 2011. If the budget office doesn't have enough money coming in, they have the authority to ratchet down HB 324 and HB 667 and some of the other programs. What happens after that is a separate issue. There will be another amendment to provide that certain things in Medicaid get a higher priority than the other programs. If things get ratcheted down, certain things get funded first and some programs aren't going to get funded in the end. He had not seen any indication on the impact of the statewide ban yet. REP. SINRUD said they are creating these programs and have no clue

about sustainability after 2011. He asked what would happen to these individuals and what is the effect on the general fund and the budget. **SEN. COBB** advised it is the same issue--when the money runs out, they are cut off. That has happened in human services before. When they run out of money, they either don't fund them or find the money to fund them. **Mr. Ewer** doesn't want these big expansions if they can't be sustained for four or five years. That is why he wanted a reserve account. As more people quit smoking, it will be decided which programs will continue. Some of the Medicaid areas will get a higher priority; the prescription drugs program starts on January 1. There are waiting lists on prescription drugs, HB 667, and CHIPS. At some point, they can decide not to expand or not do the program any more. **Mr. Ewer** will decide in the next four years, unless there are other priorities, who gets to be on waiting list. When they run out of money, there will either be a huge waiting list, or, unless general fund is put in to make up the difference, the program will not be funded. **REP. SINRUD** charged it is poor policy to create large programs that are not sustainable. He claimed HB 667 was a result of the Appropriations Committee, including himself, sitting down with the Legislative Auditor's office and **Lois Steinbbeck** to look at the projections. An amendment was needed that would give sustainability to HB 667. It is poor policy to not look long range.

**Vote:** Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**Motion/Vote:** **REP. WELLS** moved that HB000293.ALS BE ADOPTED. Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**EXHIBIT**(frs82hb0002a27)

**Motion:** **REP. WELLS** moved that HB000294.ALS BE ADOPTED.

**EXHIBIT**(frs82hb0002a28)

**Discussion:**

**REP. WELLS** said they thought this could be eliminated. There is plenty of counseling going on and folks know what tobacco is all about.

**Vote:** Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**Motion:** **REP. WELLS** moved that HB000295.ALS BE ADOPTED.



**EXHIBIT**(frs82hb0002a29)**Discussion:**

**REP. WELLS** indicated they don't see that this FTE is necessary.

**SEN. COBB** countered that this may save the general fund several million dollars in the next biennium. If he could have pulled the money out, he would have. If the Tribes can do a better job getting 100% federal match, that frees up the general fund match and helps the Tribes increase their health care. This is a management issue between the Tribes, the state, and the Indian Health Services.

**Vote:** Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**Motion:** **SEN. COBB** moved that HB000269.ALS BE ADOPTED.

**EXHIBIT**(frs82hb0002a30)**Discussion:**

In response to a question by **REP. SINRUD**, **Ms. Purdy** said **Mr. Petesch** raised an issue with language that required a report, or something else from an agency, that wasn't tied to an appropriation. **Ms. Steinbeck** clarified the only language that is appropriate is the proper restriction on the appropriation. There have been Supreme Court cases upholding that. There is nothing in the statutes that requires a report. If they want that kind of a report, they can ask the Finance Committee to ask for it.

**Vote:** Motion carried unanimously by voice vote.

**Motion:** **REP. ROSALIE BUZZAS** moved that HB000270.ALS BE ADOPTED.

**EXHIBIT**(frs82hb0002a31)

**Ms. Steinbeck** explained the amendment addresses the illegal uses of I-149 money. Instead of appropriating or changing the appropriations in HB 2, this appropriates up to \$11.3 million from general fund if general fund receipts, as reviewed and established by the Office of Budget and Program Planning by September 1, 2005, are in excess of the amounts listed in the fiscal report. The fiscal report is an analysis of what the Legislature did and what it anticipated the receipts to be. It includes HJR 2 estimates as well as all the legislation that passed affecting the general fund. If there is extra money above

that, it goes to offset those appropriations from I-149 in the order they are listed.

**REP. SINRUD** asked if there are excess revenues, if those first revenues up to this number will be diverted as stated in this amendment; if not, nothing is affected. **Ms. Steinbeck** indicated, yes.

**Vote:** Motion failed 1-6 on a voice vote with **REP. BUZZAS** voting aye.

**CHAIRMAN COONEY** asked whether they reconsidered their action on HB000271.als. **SEN. COBB** said they passed it and then brought it back on the advice of **SEN. TESTER**. **REP. FRANKLIN** said this is the issue of the long-term care money. They had stripped the money out in the House, telling the Department they need to do this anyway, and took it out of the appropriation. They asked LFD to double check the history. She thought the money needs to stay out based on the action in the House. **SEN. TESTER** indicated he would not offer it.

[EXHIBIT\(frs82hb0002a32\)](#)

**Motion/Vote:** **REP. SINRUD** moved that HB000292.ALS BE ADOPTED. Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

[EXHIBIT\(frs82hb0002a33\)](#)

**Motion:** **SEN. COBB** moved that HB000297.ALS BE ADOPTED.

[EXHIBIT\(frs82hb0002a34\)](#)

**Discussion:**

**SEN. COBB** said, in committee, they mandated certain things had to be done by July 15, or the Department will lose part of their budget. After consulting with members of the subcommittee and the budget office, this will be amended to say these things should be done in this time. The budget office has written back that they will try to implement these programs on July 1 and July 15 and get them up and running, funding them with general fund. They still have the discretion, if something goes wrong, not to do so. The intent is to fund these programs.

**{Tape: 2; Side: A}**

This was a compromise. If something goes wrong, they don't want to wreck the budget and have a special session because part of human services was wiped out.

**REP. SINRUD** asked what the net effect is on the dollar amount in the budget. **SEN. COBB** replied there is no net effect right now on the budget amount. If they didn't implement anything, it would save a couple of million dollars general fund from July 1 to January 1, and then they wouldn't spend the I-149 money either. That is the potential situation if there is a huge wreck in the budget after the Legislature leaves. The amendment takes out the "musts" and inserts "should be".

**Vote: Motion carried 5-2 with REP. SINRUD and REP. WELLS voting no.**

**Motion: REP. BUZZAS moved that HB000253.APG BE ADOPTED.**

**EXHIBIT (frs82hb0002a35)**

**Discussion:**

**REP. BUZZAS** advised this agreement was made through negotiations with the Department in terms of how the money would be spent, in order of priority, as funds were available.

**SEN. COBB** told the committee that, in the subcommittee, members took all these other training programs out and moved the money up to cash assistance. The Department wanted to move some of the money back. **REP. CHRISTINE KAUFMAN** and others wanted to raise the cash benefits up. There was a compromise that cash benefits have to stay at a certain level; if they do the Department can add these other training programs.

**REP. SINRUD** asked **REP. BUZZAS** to define "diversionary programs" and what those would be used for. **Pat Gervais, Legislative Fiscal Division**, responded that the Department proposed spending some federal funds on programs geared toward moving folks to employment early on or prior to the beginning of receiving cash assistance. The concept was to divert them from the cash assistance rolls through development of some new programs implemented at the Department either this year or in the next biennium. **REP. SINRUD** asked why the amendment maintains the restriction that the funds may not be used to support abstinence education. **Ms. Gervais** said that was action taken in the subcommittee because, in the proposal that came forward to the subcommittee, the Department indicated that they planned to spend \$40,000 of federal TANF funds to supplement the abstinence education program. The subcommittee adopted the language that

the funds could not be used in that way. She discussed that with **Mr. Petesch** to make sure that it was not an amendment to statute, and, because that is not addressed in substantive law, he said it was okay for HB 2.

**Vote:** Motion carried 5-2 with REP. SINRUD and REP. WELLS voting no.

### Section C

**Motion:** REP. WELLS moved that HB000221.ABJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a36)

### **Discussion:**

**CHAIRMAN COONEY** asked if the fisheries technician amendment targets any particular person or area. **Barb Smith, Legislative Fiscal Division**, said these are new FTE; there would be one half-FTE in Region 3 and one half-FTE in Region 6.

**REP. SINRUD** said the vacancy rate in Region 3 is 18.2%. They are not even using 18.2% of the individuals now, and are supposed to have 19.11 FTE's. In Region 6 they are supposed to have 11.02 FTE's and their vacancy rate is 3.9%. He asked why Region 3 should get a half FTE and Region 6 should not get a full FTE.

**Ms. Smith** said Fish, Wildlife, and Parks has a number of conglomerate FTE's in which some are filled at high points doing the year. Depending upon when the snapshot was taken, those positions may or may not be filled. They also leave positions open for vacancy savings. **REP. SINRUD** indicated he would support this. Looking at the vacancy rates within the fisheries area they range anywhere from 20% down to 3.9% and even .7%. He did not think the additional FTE's are needed.

**Vote:** Motion failed 3-4 with SEN. COBB, REP. SINRUD and REP. WELLS voting aye.

**Motion:** REP. WELLS moved that HB000222.ABJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a37)

### **Discussion:**

**SEN. TESTER** asked if this has to do with fish viruses and was told that is correct. **SEN. TESTER** asserted, with Whirling Disease, he is not sure this is the right direction to be going. **REP. WELLS** indicated the decision package stated virology has

been done free of charge by the U.S. Fish and Wildlife Service in the past. Beginning in 2006, they will begin charging for those services. FWP won't cease providing the service and will find funds in some of the other packages, according to **REP. WELLS**.

**Vote:** Motion failed 2-5 with **SEN. SINRUD** and **SEN. WELLS** voting aye.

**Motion:** **REP. WELLS** moved that HB000223.ABJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a38)

**REP. WELLS** noted there is an increase in water craft use around the state and they felt this extra effort is not needed.

**Vote:** Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**Motion:** **REP. WELLS** moved that HB000224.ABJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a39)

**Discussion:**

**REP. SINRUD** advised when they go through these budgets, they are looking at proposals that appear to not be present law adjustments. Decision Package 502 is placed under present law adjustments and is a restricted one-time-only. That should not be in the present law adjustments and should be a new proposal. These are not necessary programs, he contended, and they are building the base and building the budget. That is not required at this particular point. He thought the Department has more than enough money to fund what they need to do. This is expansion of the bureaucracy in FWP.

**SEN. TESTER** thought some of that bureaucracy is the fault of the Legislature. One of the things brought up last session was game surveys in regard to predator impacts on wildlife. He noted **SEN. JOE BALLYEAT** and others were very concerned about that. He wondered if this program is a reaction to that requirement for wildlife surveys. **REP. SINRUD** recalled when they went through this, he asked **REP. RICK RIPLEY** to look at areas that could be reduced without having any harm whatsoever. These are the amendments they came up with, understanding there are certain things that are required for surveys. This is one-time-only funding; it was never in the budget. They have been able to do the surveys in the past with the funds they have been given. He does not see any more bills at this point that require them to do

more surveys. **SEN. TESTER** said, nor did he. This may be a reaction to requirements that were done last session, and he thought the Department was having trouble getting done. He said it was a bill that he carried. He asked if **REP. RIPLEY** or someone on the subcommittee made the recommendation to cut this program. **REP. SINRUD** indicated **REP. RIPLEY** made that recommendation. **SEN. TESTER** said **REP. SINRUD** made a good point. He thought this amendment may have merit, unless it is a reaction to requirements that were put on the Department in the 2003 session. He said he would resist the amendment, regretfully.

**Vote:** Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**Motion/Vote:** **REP. SINRUD** moved that HB000225.ABJ BE ADOPTED. Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**EXHIBIT**(frs82hb0002a40)

**Motion/Vote:** **REP. SINRUD** moved that HB000226.ABJ BE ADOPTED. Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**EXHIBIT**(frs82hb0002a41)

**Motion/Vote:** **REP. SINRUD** moved that HB000227.ABJ BE ADOPTED. Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**EXHIBIT**(frs82hb0002a42)

**Motion:** **REP. SINRUD** moved that HB000229.ABJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a43)

**Discussion:**

**SEN. TESTER** said this reduces the Department's ability to go after people out of season or those from out-of-state who are illegally in-state. **REP. SINRUD** believed they currently have funds to do this. This is what they say is a present law adjustment. It has not been justified. The present law adjustments for operating expenses are the same way. He believed they can handle the same amount of potential litigation that they have in the past.

**Vote:** Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS voting aye.

**Motion/Vote:** REP. SINRUD moved that HB000230.ABJ BE ADOPTED. Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS voting aye.

**EXHIBIT**(frs82hb0002a44)

**Motion:** REP. SINRUD moved that HB000247.ATP BE ADOPTED.

**EXHIBIT**(frs82hb0002a45)

**Discussion:**

**SEN. TESTER** asked, why. **REP. SINRUD** claimed the Department of Environmental Quality (DEQ) has a vacancy savings rate of 11.7%. **SEN. TESTER** said he had a hunch the vacancy savings in the Department were due to competition with the private sector. **REP. SINRUD** said that may very well be, but it is their job to make sure that those positions that should be filled are filled. If they are not filling them, there is a problem to resolve. The audit showed vacancy savings rates were 8% statewide. If those positions are not filled, yet required, then the Legislature is not doing their job, nor are the Departments.

**REP. BUZZAS** said she sat on that subcommittee and remembers this issue coming up. There were some reasonable explanations for why those were not filled; some positions were seasonal.

**Vote:** Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS voting aye.

**Motion:** REP. SINRUD moved that HB000248.ATP BE ADOPTED.

**EXHIBIT**(frs82hb0002a46)

**Discussion:**

**SEN. TESTER** inquired if this takes out the meat inspectors.

*{Tape: 2; Side: B}*

**REP. SINRUD** said this involves the vacancy savings issue in the Department of Livestock. He wanted to get to an honest budget. He didn't want game playing with the FTE's. The Department has a 12.1% vacancy rate currently. **SEN. TESTER** said several amendments dealt with the vacancy saving issue. He thought the

audit showed there was some budgetary maneuvering with vacancy savings, and that has to be addressed. He said it is unfortunate that vacancy savings were applied across the board to save some money. Vacancy savings are applied at 4% in Governor Schweitzer's budget. Once these are applied globally, agencies tend to do these kinds of things. He said if this amendment is adopted, when he goes back to the Chamber, both **SEN. KEITH BALES** and **SEN. KEN HANSEN** will shoot him. **REP. SINRUD** declared it is the Executive's responsibility to make sure that the agencies are doing what they are required to do. The Legislature needs to put people on the ground level where they need to be. **SEN. TESTER** noted if any agency is removed from the Executive, it is the Department of Livestock. They have their own Board and appoint their own director. It seemed to him that if anybody is going to be efficient, it will be the Department of Livestock, especially when he hears they don't have a cattle specialist, lab people, etc. All of the Board members are producers. He thought there was something else going on with vacancy savings than just the numbers.

**CHAIRMAN COONEY** said this just goes to show what a phony thing vacancy savings is. It is a horrible management tool and one that shouldn't be used. The Legislature continues to use it and they continue to have these discussions.

**Vote:** Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**Motion/Vote:** **REP. SINRUD** moved that HB000249.ATP BE ADOPTED. Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**EXHIBIT**(frs82hb0002a47)

**Motion/Vote:** **REP. SINRUD** moved that HB000251.ATP BE ADOPTED. Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**EXHIBIT**(frs82hb0002a48)

**Motion/Vote:** **REP. SINRUD** moved that HB000252.ATP BE ADOPTED. Motion failed 2-5 by voice vote with **REP. SINRUD** and **REP. WELLS** voting aye.

**EXHIBIT**(frs82hb0002a49)



**Motion/Vote:** REP. SINRUD moved that HB000253.ATP BE ADOPTED.  
Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS  
voting aye.

**EXHIBIT**(frs82hb0002a50)

**Motion:** REP. SINRUD moved that HB000219.ABJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a51)

**Discussion:**

REP. SINRUD said this amendment deals with funding the Environmental Impact Statement (EIS) on the Gallatin River, which failed in each session for the last six years. The issue is what is an Outstanding Resource Water (ORW) and that is what the EIS is for. He read from an email he received that quoted 75-1-316. He claimed the intent of this river being classified as an ORW is to shut down the construction in Big Sky, where four ski resorts are an economic engine in Gallatin County.

**Vote:** Motion failed 3-4 by voice vote with SEN. COBB, REP. SINRUD and REP. WELLS voting aye.

**Motion/Vote:** REP. SINRUD moved that HB000231.ABJ BE ADOPTED.  
Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS  
voting aye.

**EXHIBIT**(frs82hb0002a52)

**Motion/Vote:** REP. SINRUD moved that HB000232.ABJ BE ADOPTED.  
Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS  
voting aye.

**EXHIBIT**(frs82hb0002a53)

**Motion/Vote:** REP. SINRUD moved that HB000233.ABJ BE ADOPTED.  
Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS  
voting aye.

**EXHIBIT**(frs82hb0002a54)

**Motion/Vote:** REP. SINRUD moved that HB000234.ABJ BE ADOPTED.  
Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS  
voting aye.

**EXHIBIT**(frs82hb0002a55)

**Motion:** REP. SINRUD moved that HB000272.ASS BE ADOPTED.

[EXHIBIT](#)(frs82hb0002a56)

SEN. COBB inquired if this is the one SEN. DAVE LEWIS put back on in the Senate and REP. SINRUD said is correct.

**Vote:** Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS voting aye.

**Motion/Vote:** REP. SINRUD moved that HB000266.ASS BE ADOPTED.  
Motion carried 5-2 by voice vote with SEN. COBB and REP. BUZZAS voting no.

[EXHIBIT](#)(frs82hb0002a57)

**Motion/Vote:** REP. SINRUD moved that HB000273.ASS BE ADOPTED.  
Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a58)

**Motion/Vote:** REP. SINRUD moved that HB000274.ASS BE ADOPTED.  
Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a59)

**Motion/Vote:** REP. SINRUD moved that HB000275.ASS BE ADOPTED.  
Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a60)

**Motion/Vote:** REP. SINRUD moved that HB000276.ASS BE ADOPTED.  
Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS voting aye.

[EXHIBIT](#)(frs82hb0002a61)

SEN. COBB asked for an explanation of HB000207.abj. Ms. Smith explained this is a cleanup of what happened on the floor of the Senate. SEN. BALES moved two amendments on the floor. He added money into the base and said that money would be used for the Concentrated Animal Feeding Operation (CAFO) inventory. That is not what the amendment did. When the amendment for the CAFO inventory came forward, it failed. This takes the money out of the base, that was added on the floor, and moves money to provide

for a one-time-only appropriation to inventory the types and sizes of CAFO's in the state.

**Motion:** SEN. COBB moved that HB000207.ABJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a62)

**Discussion:**

**Ms. Smith** said SB 320 outlines some requirements for CAFO's and will eliminate the need for environmental impact statements on CAFO's. Currently, because of a court order, every one of those operations has to have an environmental impact statement or an environmental assessment, rather than go through the general permitting process. SB 320 corrects that and allows them to go through a general permitting process. **CHAIRMAN COONEY** asked if there is another amendment with contingency language so, in case that bill fails, there is still money for the EIS. **Ms. Smith** indicated, yes. **CHAIRMAN COONEY** asked if they pass this amendment, if it supercedes that amendment or if they work in concert. **Ms. Smith** said if they pass this, it is still contingent on the passage of SB 320. If they want to adjust the language to allow for the EIS money to stay, if the EIS remains in language, they still have to move the other amendment.

**SEN. COBB** asked if they don't pass this, if it hurts the intent of **SEN. BALES** to form feedlots. **Ms. Smith** said the result would be a base that is overstated because the funding won't be there. They would not be able to do the inventory of the operations. The inventory is an agreement in place of the EIS. **SEN. COBB** said they have to do the inventory and don't have the funding unless this amendment passes.

**Vote:** Motion carried unanimously by voice vote.

**Motion:** SEN. TESTER moved that HB000209.ABJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a63)

**Discussion:**

**SEN. TESTER** said he moved the amendment because of the adjudication that will be going on in the interim. This provides the fisheries division with an increase to meet their obligations surrounding water adjudication fees. **CHAIRMAN COONEY** said the Department has to pay this fee and this gives them permission to pay the fee.

**REP. SINRUD** asked how they know this is a legitimate accounting of what they need for the water adjudication. **SEN. TESTER** said it is real. Former **SEN. WALTER MCNUTT**, now **REP. MCNUTT** has worked on the Environmental Quality Council through the interim, and he did not believe that **REP. MCNUTT** would have offered this amendment if he didn't think it was needed. **REP. SINRUD** asked if they have seen the justification from the Department or if this is a bloated number. He wondered how much they currently have in their budget for water adjudication, carry-forwards, and reversions. He wondered if they can take something else out of their budget for a necessity of this nature. **SEN. TESTER** said they may be able to; if they can't, it puts the water adjudication behind. He thinks water is the most important resource in the state and water adjudication is about control of water resources.

**Vote:** Motion carried 6-1 by voice vote with **REP. SINRUD** voting no.

**SEN. COBB** asked **Ms. Smith** about amendments HB000211.abj and HB000212.abj and if the reclamation development account is closely related to what **REP. VERDELL JACKSON** is trying to do. **Ms. Smith** clarified that reclamation and development receives money from the groundwater assessment taxes. It is part of the Resource Indemnity Trust related accounts. **SEN. COBB** asked if there is enough money there. **Ms. Smith** replied, due to the increased revenues in the oil and gas tax, there is.

[EXHIBIT\(frs82hb0002a64\)](#)

[EXHIBIT\(frs82hb0002a65\)](#)

**Motion:** **SEN. COBB** moved that HB000211.ABJ BE ADOPTED.

**REP. BUZZAS** said she would support the amendment. The organization has done a lot of good work and this is not a lot of money to maintain their travel so they can continue with planning along the Clark Fork River corridor.

**Vote:** Motion carried 5-2 by voice vote with **REP. SINRUD** and **REP. WELLS** voting no.

**Motion:** **SEN. COONEY** moved that HB000215.ABJ BE ADOPTED.

[EXHIBIT\(frs82hb0002a66\)](#)

**Discussion:**

**CHAIRMAN COONEY** advised there is a foundation in the Department of Fish, Wildlife, and Parks. There was an audit that said they needed to separate those activities and that has been done. In an effort to do that, the Legislature went too far. That created a situation where this foundation cannot work with the agency.

**{Tape: 3; Side: A}**

This would allow them to allocate someone to work part time, as part of their job and, in concert with the foundation, to do certain things that are typical in a foundation/organization relationship.

**REP. SINRUD** expressed skepticism that the head of the Department is not able to work ten hours a week with this foundation. He thought this appears to be a boondoggle by the Department to help a private foundation. **CHAIRMAN COONEY** responded that the foundation is there to help the agency. This would fund a liaison. He did not know if the Director could do this on his own. If something is not done, this will be treated differently than any other foundation/organization relationship. Legislation drafted this session to correct the audit issue went too far.

**REP. SINRUD** asked if this amendment is needed in order for the Department to have interaction with the foundation. **CHAIRMAN COONEY** said that is correct and it would allow them to operate.

**REP. SINRUD** asked what the foundation does and who runs it.

**CHAIRMAN COONEY** replied the foundation is run by an individual and they do a number of projects and manage programs, such as one at Canyon Ferry. **Ms. Smith** added the FWP Foundation is not a typical 501 C-3 foundation. It is set up in support of government activities so that it can receive grants from other foundations. The projects they work on include the Wind River Bear Institute and the Wildlife Center, which is near Spring Meadow Lake. They also manage the fiduciary trust from the cabin lease sales at Canyon Ferry. **REP. SINRUD** indicated he could not support the amendment.

**Vote:** Motion failed 3-4 with **SEN. COONEY**, **REP. BUZZAS**, and **REP. FRANKLIN** voting aye.

**Motion:** **SEN. COBB** moved that HB000216.ABJ BE ADOPTED.

**Discussion:**

**Ms. Smith** explained, in an amendment on the Senate floor, **SEN. MIKE WHEAT** switched the funding for the Gallatin River EIS from excess RIT funds to water quality permits in order to balance out the RIT excess corpus. In doing that, **SEN. GREG BARKUS** took that corpus. She indicated that corpus no longer exists because it is

over-allocated. This allows them to move that state special revenue into the reclamation and development account. There is no "strike" or "insert" in the amendment because they are using the same amount of money and funding it with a different special revenue source. **SEN. COBB** said this allows moving the money around to pay for things they are paying for now. **Ms. Smith** said that is correct. **SEN. COBB** said he wants that flexibility. Without the amendment, it would be difficult to pay for things they have already appropriated. **Ms. Smith** advised the excess corpus to the resource indemnity trust is about \$254,000 and it has been over-allocated by \$138,000. There would be three agencies set up against each other to get to that money. **SEN. COBB** said this allows moving the money around so it funds everything without the three agencies fighting each other. **Ms. Smith** said that is correct.

**Vote:** Motion carried 5-2 by voice vote with **REP. SINRUD** and **REP. WELLS** voting no.

**Motion:** **SEN. COONEY** moved that HB000217.ABJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a67)

**Discussion:**

**Ms. Smith** advised, if SB 320 passes in its current form, it eliminates the need for the EIS. Environmental groups are lobbying the Governor to strike that language. This would leave the money in for the programmatic EIS if the Governor strikes that language. **CHAIRMAN COONEY** said it is contingency language.

**REP. SINRUD** asked how much that programmatic EIS will cost the state. **Ms. Smith** replied, \$118,000.

**Vote:** Motion carried 5-2 by voice vote with **REP. SINRUD** and **REP. WELLS** voting no.

**Motion:** **REP. BUZZAS** moved that HB000220.ABJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a68)

**Discussion:**

**Ms. Smith** explained this is a conservation district position that was originally one-time-only and was in the coal tax shared account. Based on the condition of **REP. MONICA LINDEEN'S** bill, the Department will receive additional coal tax share dollars and

would put the position into the base. This was a position they lost in the 2003 session.

**Vote:** Motion carried 5-2 by voice vote with REP. SINRUD and REP. WELLS voting no.

**Motion/Vote:** SEN. TESTER moved TO RECONSIDER ACTION ON HB000271. The motion carried unanimously by voice vote.

**EXHIBIT**(frs82hb0002a69)

SEN. TESTER said they voted to reconsider their actions, and if he doesn't move the amendment, this does not happen. CHAIRMAN COONEY replied the amendment is just back in front of them. SEN. TESTER said it does not take effect and that is what he wants; he does not want to spend the money. REP. SINRUD believed the motion to reconsider put their action on the table. He thought they have to remove it. Ms. Purdy thought they could either not move the amendment or someone would have to make a positive motion to pass the amendment. If they take no action, there is no action on the amendment. CHAIRMAN COONEY said that will be the understanding if SEN. TESTER wants to pass over the amendment. SEN. TESTER said he will not offer it and if someone else offers it, he will oppose it.

Recess 4:20 p.m.

Reconvene 4:40 p.m.

**Motion:** REP. SINRUD moved that HB000215.AHJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a70)

**Discussion:**

*(Note: There is a gap in the taping for the first five or ten minutes after the recess due to a defect in tape)*

REP. SINRUD advised the prerelease centers were given a 2% raise in 2006 and 2007. This amendment takes out the 2%. CHAIRMAN COONEY indicated the subcommittee approved the 2 and 2 and he favored doing what the subcommittee intended.

Harry Freeborn, Legislative Services Division, advised, during subcommittee, people were throwing percentages around. The chair asked the department to produce a worksheet. REP. WELLS asked if there was still confusion and wondered if subcommittee members understood what they were voting for. Mr. Freeborn said the

item was voted on twice with members using the worksheet. He indicated people often use percentages in confusing ways.

**REP. WELLS** thought there was an error in the second year and that they switched from talking about percentages to dollar figures. **CHAIRMAN COONEY** indicated he had been willing to support the 2 and 2. He thought this amendment might have a devastating impact.

**Vote:** Motion passed 4-3 with **SEN. COONEY, REP. BUZZAS, and REP. FRANKLIN** voting no.

**Motion:** **REP. Wells** moved that HB000216.AHJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a71)

**Discussion:**

**REP. WELLS** thought the subcommittee was somehow confused and this was not intended. The same kind of thing occurred with the WATCH program at the correctional facility in Shelby.

**REP. BUZZAS** spoke in opposition to the amendment. The community corrections facilities in Missoula and Great Falls had problems negotiating with the Department of Corrections and being able to make any progress. They are eating costs and having financial problems. She indicated there was a ton of work done on this in subcommittee and she did not think they should be second-guessing that work at this stage of the game with the amount of information they have.

**Vote:** Motion failed 2-5 by voice vote with **REP. SINRUD and REP. WELLS** voting aye.

**Motion:** **REP. WELLS** moved that HB000217.AHJ BE ADOPTED.

**EXHIBIT**(frs82hb0002a72)

**Discussion:**

**REP. BUZZAS** encouraged the committee to avoid this amendment.

**SEN. TESTER** asked where this money goes. **Mr. Freeborn** reported these are increases approved by the subcommittee for regional prisons. There is one in Cascade County in Great Falls, one in Missoula County, and one in Dawson County. They are not to be confused with the private prison, which is the Crossroads facility in Shelby.



**Vote:** Motion failed 2-5 by voice vote with REP. SINRUD and REP. WELLS voting aye.

CHAIRMAN COONEY asked if there were further amendments. REP. WELLS declined to move his final amendment.

**Motion:** SEN. TESTER moved that HB000218.AHJ BE ADOPTED.

**EXHIBIT** (frs82hb0002a73)

**Discussion:**

SEN. TESTER submitted that this is a reasonable reduction. REP. SINRUD said they went through three amendments and were on the fourth. He asked, why not consistently reduce these budgets. His assessment was the increase in the regional prisons went to public facilities and this one goes to the private facility. He asked why not treat them equally. SEN. TESTER said that is a reasonable question. He said he would reconsider his vote on HB000215.ahj (exhibit 70) because he thought that was the private facility. He thought it is imperative, when dealing with the private sector where profit is the primary motive, to keep that pencil sharp. REP. SINRUD said he agreed, when dealing with public funds. He asked how they can hold the private facility accountable, yet with the public funds those individuals are potentially growing their budgets. There is limited ability in the public sector to reduce costs like a business. In the private sector they are able to shift some of their costs. He thought it is just as important, if not more important, to sharpen that pencil on the public sector to hold them accountable for the actions they take to increase costs on the property taxpayers relative to the private sector. The private sector can do other things to balance out their books. The public sector is solely based upon the dollars they receive from the taxpayers of Montana. SEN. TESTER replied it is a philosophical difference. He thinks the folks who run the prisons for the public sector need to be held accountable by their administrators and, if they are not, they need to be replaced. In the areas of private enterprise, the private prisons are after one thing and that is the buck. Regarding the private sector, he said, if he was negotiating, he would negotiate the highest profit margin he possible could. He said REP. SINRUD could vote against this reduction if he likes.

**Vote:** Motion carried 5-2 by voice vote with SEN. COONEY and REP. FRANKLIN voting no.

**Motion:** SEN. TESTER moved RECONSIDER ACTION ON HB000215.AHJ.  
(Exhibit #70)

**Discussion:**

SEN. TESTER said he thought this applied to the private prison when he voted aye.

**Vote:** Motion carried 4-3 with SEN. COBB, REP. SINRUD, and REP. WELLS voting no.

CHAIRMAN COONEY thought the motion failed. Ms. Purdy said if a member of the committee wanted to make a motion to add \$236,210 to line item D-8 line 6, it would reverse the previous action.

**Motion:** REP. BUZZAS moved TO ADD \$236,210 TO LINE ITEM D-8, LINE 6.

**Discussion:**

REP. SINRUD believed the previous motion to reconsider passed because, if a Senate amendment ties on the House side, the amendment is adopted. He said the Senate is driving the bus and they are in the back seat--way in the back. He believed the reconsideration motion passed because it is exactly the same as if they made the motion and it failed on the House side but passed on the Senate side; the motion passed. Therefore, the reconsideration passed. Ms. Purdy indicated this was an issue that did not come up in discussions with Mr. Petesch, so they do not have a ruling from him on this issue. There is a difference, though, in whether or not they put an amendment on that goes forward in the House without a recommendation and whether or not a motion like this passes. However, if the committee, as a consensus, wishes to go forward as if the reconsideration did pass, unless there is an objection on the basis of rules, that will go forward essentially by implication. This committee could decide, in and of itself, to go forward as if it had passed the reconsideration and wait for someone to challenge that against the rules. If no challenge is made, it just goes forward. REP. SINRUD said he understands that, but wondered if they were going to put it back in anyway. SEN. TESTER advised it is easily solvable by doing what Ms. Purdy said. If nobody objects, they will move forward on reconsideration. REP. BUZZAS can withdraw her motion. CHAIRMAN COONEY said he can rule that the motion passed, without objection. If there is no objection, they can move forward. REP. SINRUD said the question is, apart from the objection and all of that, if they can still go forward and put the money back in. So, in essence, it does not really matter.

They don't need the motion; the Chairman can rule without objection. He and **REP. WELLS** disagree with it, but it is going to be put back in anyway. **CHAIRMAN COONEY** stressed it is a procedural thing. He wanted to make sure that they take action in the cleanest possible way so that there is no objection. **REP. SINRUD** said to rule without objection.

**REP. BUZZAS** withdrew her motion.

**CHAIRMAN COONEY** said they took a vote on the motion by **SEN. TESTER** to reconsider their action on HB000215.ahj. Two senators voted yes, one senator voted no. Two representatives voted yes, two representatives voted no. On that basis, he ruled that the motion passes if there is no objection. He asked if there was an objection. Hearing no objection, he said they would reconsider their action.

*{Tape: 3; Side: B}*

**REP. SINRUD** advised there is no sense in **REP. WELLS** and himself offering up amendments to reduce a bloated budget. The amendments are not going to pass and he didn't think they need to waste a Saturday night. The staff has done an excellent job. Half of the individuals in the audience are being paid on state dollars; they are getting overtime, comp time, and the unfunded liabilities are continuing to go up and are not being paid for. He did not think they were doing a good job for the people of Montana. He said **REP. WELLS** and himself represent half the state of Montana because there is a 50/50 House. They are not going to be able to make any reductions to the budget and can see the writing on the wall. He did not want to be dilatory and move forward with amendments they know are not going to pass. He wished they could have come to some agreement, prior to this, to take a reasonable amount of dollars out of the budget. He declared he would not offer the rest of the amendments in Section E and Section D, because they don't need to waste the time or dollars of the taxpayers of Montana. He thought the budget itself is going to do some huge damage to the state in the future; that has not been looked at very closely, whatsoever. He felt they had allowed agencies to push and direct them and legislators have not done their job.

**REP. FRANKLIN** offered a different view. She stated she does not represent fifty percent of the state of Montana; she represents all the Republicans and the Democrats in her district and those are the only people she represents--HD 24 in Cascade County. Some of the people disagree with what she does and some agree. Some of them trust that she will make the best judgment. She agreed their job is to look at the budget and do the best they

can, but thinks their overarching job is to participate in democracy in a way that honors the process. She understands how it feels not to have the power of numbers, because she was in that position for twelve years. She sat on many committees, where she disagreed philosophically, but she stayed and did what she had to do because she believed she and her people had a role at the table. That is how democracy works. They go through the process and do it without any blood-letting. Sometimes they get mad at each other but hope the parliamentary process keeps the information and relationships flowing. She thinks that is an important part of what they do--they represent to their people that democracy can work even when there are strong philosophical differences.

**SEN. TESTER** said this may be premature as they have not gotten through all the sections yet. He said he wanted to reflect on the budget for a minute because he heard a lot of words like "bloated", "who is driving the bus", and "agencies are manipulating the process". He said he has lived a pretty good life. He has always had food on the table, has never been in a soup kitchen, and his folks have never been in a situation where they had to go without prescription drugs or health care. He looked at this budget and has looked at the budgets that have been put forth for the people of the state of Montana since he has been involved in the process. In 1999, **SEN. WELLS** and he came to the Senate together; **SEN. WELLS** came from the House and he came from the farm. He has seen things go the wrong direction, from his perspective. He has seen upper level courses in education not be funded and not be able to be offered. Because of a lack of state funding for education, property taxes were raised. Programs for the children were cut. That has not been especially good. This budget does not fill that hole; it takes a step in the right direction so that property taxes won't be going up as much and the state will be taking a higher share of K-12. He stressed they are not done with their work yet; they will be back and will finish that job. **SEN. TESTER'S** folks paid for his college, but he can't pay for his son's because tuition has gone up so much. State funding has gone down and they have privatized state institutions. His son has the opportunity to go to school at the University of Montana because he can get the loans to do it. His son told him he went to work in a soup kitchen as a volunteer. He said he was serving homeless kids younger than himself. **SEN. TESTER** said if they think that such a terrible job has been done on this budget, maybe they ought to start living the life of the people that are being impacted by cuts. He has what he needs and buys a new pickup once in a while. He raises a cow and puts a nice steak on the table, but not everybody is in his shoes. As long as this is going to be a "me" world and to hell with everybody else, then there will be

budgets that put people on the street. This budget is a restorative budget that helps education, helps the elderly, the developmentally disabled, the mentally ill, and, most importantly, families.

**REP. SINRUD** claimed he never said to hell with people. **SEN. TESTER** replied, if he said that, he apologizes. **REP. SINRUD** said he has been there and understands what it is like. When he was living in L.A. for four years, he helped those individuals out. He said his parents did not pay for his college either. In 1985, it cost \$350 per quarter, but times are changing. The fact of the matter is, they need to look at where the money comes from. If they don't respect the people that pay the bills for these services, they are in trouble. It is hard enough to have opportunities in Montana. In 1987, when he got married, he had to move to L.A. where his wife got a job with the Department of Defense. He acknowledged they all come from different backgrounds. It is best to provide services for those that truly need it--not for the bureaucracy and not for growing government. He does not believe that this budget does it, because he has looked at it pretty deeply.

**REP. BUZZAS** advised there are 150 legislators, with different backgrounds and philosophies, that all represent people. To say that one person's way of seeing things is superior to that of 149 other people is not correct. That is why democracy works so well--when they let it work and allow it to work. She said there is a process here and they are all a part of that process. She believes that involves hearing each other and listening, but not making judgments that one is right and the rest are wrong. What they end up with is somewhere in the middle of the collective representation, philosophies and visions that they bring. She said she will never judge another person's perspective based on who they represent or what they believe in. They have to let the system work and they are participants in that process. She believes they need to honor that process and work it through. That is what the committee has been allowing today and that is what she expects **REP. SINRUD** to do as well. They will end up with a product that is best for Montana.

**REP. WELLS** said he understands the other side of this issue. He recalled when he and **SEN. TESTER** came to the Senate together and they had some very enjoyable debates. They didn't agree at the end, but he thought they both benefitted. When **REP. SINRUD** mentioned that they represent fifty percent of the people, the point was that fifty of the districts are on one side of the aisle and fifty of the districts are on the other. They represent fifty of those districts. He stressed that the amendments they brought were not cuts in the sense of cutting

anybody's prescription drugs, food, or heat, but were reductions in the increases since the last biennium. Looking back at his experience over the last ten years in the Legislature, he didn't think there were any years where they actually cut education. There were proposals of big increases and some of those proposals were reduced. Almost every program has grown in size and in funding in the last ten years. Thankfully, the state has produced enough wealth and growth in the past two years that they came into this session with a sizeable surplus for programs for the people that need them. He said he is not denying that those are sometimes appropriate and proper, but he does not agree with all the programs; he thinks some programs are not the true function of government. If all of their amendments had been accepted, it would have cut about \$90 million out of this budget, or a reduction of about one percent in the overall budget. State government does not operate unless someone pays the bill, and he maintained federal money comes from somebody paying the bill. When they try to reduce the budget, they are not trying to hurt people. They are trying to defend those that pay the bill. He addressed the increase in tuition in the Universities. He described growing up in Great Falls, where his father worked for the Anaconda Company. He went to one of the richest colleges in the United States by working and getting scholarships. When his fraternity brothers went to Switzerland to ski at Christmas time, he drove forty-eight straight hours back to Great Falls to work at the Post Office for three weeks so he could go back to college and afford the next semester. He contended he knows what soup kitchen work is like. He did not feel they had done anything to take away the opportunity for people who want to work, earn their way and stay on their own two feet. Maybe they have taken away a little charity but, if they have, he said he has a hard time identifying it. He said he is trying to protect programs that he does not favor. He did not vote for I-149 and does not care about trying to engineer someone to quit smoking, although he detests smoking. If I-149 accomplishes the purpose of stopping people from smoking, he will be happy for it. He maintained they started out two years ago with a \$230 million deficit and this session there was a \$300 million surplus. In eighty-some days, they have spent \$500 million. They think that should be cut back a little. He understands the philosophical difference and was not in any way, shape, or form complaining that he is riding in the back of the bus. He is trying to enjoy the ride and trying to tell the driver, a little bit of the time, to stay on the road.

**REP. FRANKLIN** asserted that her district is one of the most middle-class districts in the state of Montana. Her belief is that middle class people benefit from services. When they cut services, the people get cynical. She spoke of a retired military man who said he understands who pays his salary. He was

a government employee and understands who pays his pension and health benefits. If they cut the livestock division, there are a lot of ranchers who value those services. If that infrastructure is cut, those ranchers can't get services. They get mad and wonder why they pay their taxes, because that might be the one service that is valuable to them. She thinks it is a balance to support infrastructure to help the middle class and the poor. Montana does not have a healthy middle class; it is depending on basic services provided by government. They can't even help the poorest of the poor. They are just trying to keep afloat.

**SEN. COBB** said they all made good points and now they are on Section D.

#### **Section D**

**Motion/Vote:** **SEN. COBB** moved that HB000286.AHF BE ADOPTED.  
**Motion carried 5-2 by voice vote with REP. SINRUD and REP. WELLS voting no.**

[EXHIBIT](#)(frs82hb0002a74)

**Motion:** **REP. BUZZAS** moved that HB000287.AHF BE ADOPTED.

[EXHIBIT](#)(frs82hb0002a75)

#### **Discussion:**

**REP. BUZZAS** advised SB 30 was tabled in Appropriations Committee. A blast was attempted on the floor of the house and failed, so the amendment removes that appropriation in HB 2.

**Vote:** **Motion carried unanimously by voice vote.**

**Motion/Vote:** **SEN. TESTER** moved that HB000288.AHF BE ADOPTED.  
**Motion carried 5-2 by voice vote with REP. SINRUD and REP. WELLS voting no.**

[EXHIBIT](#)(frs82hb0002a76)

**Motion/Vote:** **SEN. COBB** moved that HB000267.ASS BE ADOPTED.  
**Motion carried 5-2 by voice vote with REP. SINRUD and REP. WELLS voting no.**

[EXHIBIT](#)(frs82hb0002a77)

**Motion/Vote:** **SEN. COBB** moved that HB000268.ASS BE ADOPTED.  
**Motion carried 5-2 by voice vote with REP. SINRUD and REP. WELLS voting no.**

[EXHIBIT](#)(frs82hb0002a78)

**Motion:** REP. FRANKLIN moved that HB000289.AHF BE ADOPTED.

[EXHIBIT](#)(frs82hb0002a79)

REP. FRANKLIN advised the JDIP was initiated in the Legislature in 2001 to provide flexible funding to allow youth courts to seek out and establish community-based alternatives. During the tough budget times, youth courts were asked to hold the line and the savings produced were supposed to be returned to the communities. Instead, they were used to increase funding for adult secure beds. These placement funds are used by juvenile probation officers to provide placements and services to pre-delinquent and delinquent youth as an alternative to institutional and high cost state placements.

**Vote:** Motion carried 5-2 by voice vote with REP. SINRUD and REP. WELLS voting no.

#### Section E

*{Tape: 4; Side: A}*

**Motion:** SEN. COBB moved that HB000255.AAG BE ADOPTED.

[EXHIBIT](#)(frs82hb0002a80)

#### **Discussion:**

SEN. COBB advised this amendment was requested by several members of the Senate Republican Caucus.

CHAIRMAN COONEY wondered if these are some of the positions taken out of HB 2 in Senate Finance Committee and if it is part of the shared leadership program. SEN. COBB replied, yes. CHAIRMAN COONEY asked if this is just part of the agricultural experiment station and does not put everything back. SEN. TESTER said no. He said this does not include the other positions; those amendments are to follow.

**Vote:** Motion failed by voice vote with SEN. TESTER, SEN. COBB, and REP. BUZZAS voting aye.

REP. SINRUD pointed out there was literally a split in the House on this specific amendment. He asked if the amendment died and was told yes.



**Motion/Vote:** SEN. COBB moved that HB000256.AAG BE ADOPTED.  
Motion carried unanimously by voice vote.

**EXHIBIT**(frs82hb0002a81)

**Motion/Vote:** SEN. COBB moved that HB000258.AAG BE ADOPTED.  
Motion carried 5-2 by voice vote.

**EXHIBIT**(frs82hb0002a82)

**Motion:** REP. BUZZAS moved that HB000259.AAG BE ADOPTED.

**EXHIBIT**(frs82hb0002a83)

**Discussion:**

REP. BUZZAS indicated this amendment removes additional funding for the Yellow Bay Biological Station associated with the University of Montana. This has been in and out and was not recommended by the subcommittee. She believed they don't want to keep going down this path where they are funding one specific project for one specific department in the University System Budget.

CHAIRMAN COONEY said he will not support this amendment. At first, he first opposed putting this money in. In working with the different parties who are involved with this, he believes this will come forward in the request to the Governor's budget office next time. He thought the message had been sent loud and clear to these people that they have to quit coming in and asking for this money. He thinks this is a facility that does phenomenal work and he wants to support it.

**Vote:** Motion failed on a voice vote with SEN. TESTER, REP. BUZZAS and REP. FRANKLIN voting aye.

**Motion:** SEN. TESTER moved that HB000245.AJS BE ADOPTED. Motion carried 5-2 by voice vote with REP. SINRUD and REP. WELLS voting aye.

**EXHIBIT**(frs82hb0002a84)

Jim Standaert, Legislative Fiscal Division, advised there is a line in HB 2 that refers to three year averaging and that really is BASE aid. The amendment takes that line out and puts the numbers in BASE aid so it is all in one appropriation.

**Vote:** Motion carried 5-2 by voice vote with REP. SINRUD and REP. BUZZAS voting no.

**Motion:** REP. FRANKLIN moved that HB000251.AJS BE ADOPTED.

**EXHIBIT**(frs82hb0002a85)

**Discussion:**

REP. FRANKLIN explained that this was requested by SEN. DON RYAN at the recommendation of Mr. Standaert.

REP. SINRUD said SB 48 has already been passed by the House and wondered what this has to do with SB 48. Mr. Standaert replied that SB 48 reduces property taxes because it raises the exempt amount of personal property, business equipment, from \$5000 to \$20,000. This creates a one-time GTB "ripple". REP. SINRUD said this is one-time-only funding of \$1.8 million and he thought that would be a continual ripple effect. Mr. Standaert referred to a handout comparing HB 63 with other bills and what is in HB 2.

**EXHIBIT**(frs82hb0002a86)

The \$1.8 million is a combination of pluses and minuses in several bills and HB 63. A major portion of that \$1.8 million is HB 63.

**Vote:** Motion carried 5-2 by voice vote with REP. SINRUD and REP. WELLS voting no.

**Motion/Vote:** REP. FRANKLIN moved that HB000264.AJS BE ADOPTED. Motion carried unanimously by voice vote.

**EXHIBIT**(frs82hb0002a87)

**Motion:** REP. FRANKLIN moved that HB000246.AJS BE ADOPTED.

**EXHIBIT**(frs82hb0002a88)

**Discussion:**

REP. SINRUD asked about the reason for the word "Montanans". Mr. Standaert advised the original proposal by the Governor was to create a \$2 million line item in HB 2 called Indian Education for All. As a result of the work group on that subject, another \$310,000 was put in for Indian Education for All Montanans. He needed to call it something different.

**Vote:** Motion carried unanimously.

**Motion/Vote:** SEN. TESTER moved that HB000260.AAG BE ADOPTED.  
Motion carried 5-2 by voice vote with REP. SINRUD and REP. WELLS voting no.

**EXHIBIT**(frs82hb0002a89)

**Motion/Vote:** REP. FRANKLIN moved that HB000261.AAG BE ADOPTED.  
Motion failed 4-3 by voice vote with SEN. COONEY, SEN. COBB, REP. BUZZAS and REP. FRANKLIN voting aye.

**EXHIBIT**(frs82hb0002a90)

**Motion:** REP. BUZZAS moved that HB000248.AJS BE ADOPTED.

**EXHIBIT**(frs82hb0002a91)

**Discussion:**

REP. BUZZAS advised this recommendation came from the work group that reviewed what it would take to implement Indian Education for all Montanans in schools. If there is no money to allow schools to plan and develop curriculum and then share that curriculum with other parts of the state, she is concerned the mandate will not be met.

REP. SINRUD said he would vote against the amendment. If grants are given to the schools, they could do forty-two different things. He thought OPI and the Board of Education should figure out what they want to do and move forward. The money needs to be on the front end.

**Vote:** Motion failed by voice vote with REP. BUZZAS and REP. FRANKLIN voting aye.

**Recess 5:55 p.m.**

**Reconvene 6:05 p.m.**

Clayton Schenck, Legislative Fiscal Division, advised amendment HB000251.ajs was one they considered a few minutes ago. The amendment put close to \$2.9 million into the BASE aid increases to reflect the GTB adjustment. He wanted to make it absolutely clear that the numbers in the amendment were wrong but the explanation is correct. It would have an impact of \$1.8 million. He said they will change the numbers so it will be correct, without objection.

**Motion:** SEN. TESTER moved that HB000275.AMB BE ADOPTED.

**EXHIBIT** (frs82hb0002a92)

**Discussion:**

**REP. WELLS** said this was his first exposure to seeing something on paper about HB 9 funding for the Dinosaur Park. A Senate amendment funded the Dinosaur Park in the bill. **SEN. TESTER** explained the Governor's budget put \$3.9 million of one-time-only money in the Montana Arts Council to reinstate some of the money that was lost with the purchase of Virginia City. He is proposing taking that from \$3.9 to \$3.4 million for the Great Plains Dinosaur Park. This not only affects HB 9, but also a Senate bill carried by **SEN. JOE TROPILA**. **Mark Bruno, Governor's Office**, advised the \$500,000 appropriation is in HB 423. HB 9 is currently on the Governor's desk. There will be an amendatory veto, striking the line from \$3.9 million down to \$3.4 million. **SEN. TESTER** asked where HB 423 falls into this. **Mr. Bruno** indicated HB 423 is back in the House, with second reading amendments, with \$500,000 general fund. **REP. BUZZAS** spoke in support of the amendment. **SEN. TESTER** explained to **REP. WELLS** that the amendment replaces the money that was lost. It amounts to \$60,275 in lost interest to the Arts Council.

**Vote:** Motion carried 5-2 by voice vote with **REP. WELLS** voting no and **REP. SINRUD** voting no by proxy.

**Motion:** CHAIRMAN COONEY moved TO RECONSIDER COMMITTEE ACTION ON HB000215.ABJ. (exhibit 66)

**CHAIRMAN COONEY** advised this is a total of \$30,976 that would allow the Department to have a quarter-time employee.

**Vote:** Motion carried by voice vote with **SEN. COBB** and **REP. WELLS** voting no. **REP. SINRUD** voted no by proxy.

**CHAIRMAN COONEY** asserted the foundation does good work and has the ability to continue doing good work. The foundation has raised some good money and have plans for the future. If the foundation is not allowed to operate with the department, like a normal foundation operates with the supported agency, they are setting the foundation up to fail. **REP. BUZZAS** recalled talking about this issue in subcommittee and whether it involved hiring a foundation director. **CHAIRMAN COONEY** advised there is a foundation director. He is being paid partially out of the foundation, and receives a portion of salary from the department. The auditors ruled they cannot do that. This money will not go

to the director. **REP. BUZZAS** thought a director of the department usually works closely with the director of the foundation. It seemed to her they were adding another position.

**{Tape: 4; Side: B}**

**CHAIRMAN COONEY** maintained if someone is working in the field and happen to be near a town where a presentation could be moved forward that might benefit the foundation, which would in turn benefit the agency, that does not exist under the current situation. This would allow that sort of relationship. They have to work together. Currently, there is a strong line that says they cannot have that relationship. It will not create a new person; a person will be designated as the liaison to work with the foundation from the agency standpoint.

**Vote:** Motion carried 4-3 by voice vote with **SEN. COBB** and **REP. WELLS** voting no. **REP. SINRUD** voted no by proxy.

**SEN. TESTER** said his understanding was the chairman wants to come back Monday and deal with technical amendments only. **CHAIRMAN COONEY** said that would be his preference and intention. **SEN. TESTER** indicated he had an amendment that had not been drawn up and had slipped through the cracks. **Mr. Schenck** advised that one additional conceptual amendment could be made. **CHAIRMAN COONEY** agreed to entertain the motion.

**Motion:** **SEN. TESTER** moved TO ADD \$90,000 TO THE ARTS COUNCIL BUDGET, SPLIT IN HALF, TO RESTORE OPERATING CUTS TO THE BUDGET THAT WERE APPLIED LAST SESSION.

**SEN. TESTER** indicated this is \$45,000 a year from the general fund for FY 06 and FY 07.

**CHAIRMAN COONEY** advised staff says it is not a problem to offer this as a conceptual amendment. He said the Senate restored some money to the Arts Council and he wondered how much that was.

**Marilyn Daumiller, Legislative Services Division**, clarified they restored \$150,000 that was taken away in the 2003 session. **CHAIRMAN COONEY** asked how much was taken away in the 2003 session in total. **Ms. Daumiller** said it was \$150,000 and the Senate restored that amount. An additional \$90,000 for salary increases was taken out after the executive budget.

**REP. WELLS** said the other amendment added \$60,000 general fund. **SEN. TESTER** explained that was replacement revenue for the

interest on the \$500,000 that was taken out for the Dinosaur Museum.

**REP. FRANKLIN** said this is a salary adjustment. Each position was reviewed and compared to national salary levels for similar positions. The national comparison is applicable because the agency is ranked in the top ten state arts agencies every grant period. These new salary levels continue to help offset recruitment by other states and agencies. To date the agency lost staff to the Nevada Arts Council, the Louisiana Arts Council, the Liz Claiborne Art Ortenberg Foundation, the Montana Community Foundation, and other agencies. This is to assist them in their broadband pay plan.

**Vote:** Motion carried 5-2 by voice vote with **REP. WELLS** voting no. **REP. SINRUD** voted no by proxy.

**Recess 6:22 p.m.**

**Reconvene 6:27 p.m.**

**CHAIRMAN COONEY** asked if there were any other amendments. He asked if there is a motion to take final action on HB 2.

**SEN. TESTER** asked **Mr. Schenck** if it would help the process if the committee comes back Monday at 8:00 a.m. for technical amendments, or if they are good to go. **Mr. Schenck** advised they are good to go. Staff was given flexibility with the original announcement without objection. He suggested the committee adjourn tonight and staff will prepare the committee report. If staff finds a problem, they will ask the committee to reconvene. It could be done either way. They do not anticipate a problem.

**CHAIRMAN COONEY** asked if they adopt the committee report, if they can recess until staff tells them otherwise. **Mr. Schenck** said they will have to get the committee to reopen if there is a fix to the bill.

**SEN. COBB** said if they adopt the committee report, they cannot recess because they are done. He asked if they can come back even if they accept the bill.

**Ms. Purdy** clarified that they are done if they adopt the committee report. Staff does not foresee any technical issues.

**SEN. TESTER** said it is about a level of comfort. If **REP. SINRUD** and **REP. WELLS** do not come back, they will not have a quorum.

**CHAIRMAN COONEY** said if they don't adopt the committee report, staff can't go forward. **Ms. Purdy** stated they can go forward and if any other changes are made, they can be incorporated.

**Motion/Vote:** **SEN. TESTER** moved that the **COMMITTEE REPORT BE ADOPTED**. Motion carried unanimously by voice vote.

*(Note: REP. WELLS, on Monday, April 18, 2005, changed his yes vote and that of REP. SINRUD to no votes.)*

**ADJOURNMENT**

Adjournment: 6:22 P.M.

---

SEN. MIKE COONEY, Chairman

---

PRUDENCE GILDRROY, Secretary

MC/pg

Additional Exhibits:

**EXHIBIT ([frs82hb0002aad0.PDF](#))**